

UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF TEXAS
WACO DIVISION

UNWIRED ASSET MANAGEMENT LLC,

Plaintiff

v.

CALLFIRE, INC.

Defendant

Case No. 6:19-cv-00390

JURY TRIAL DEMANDED

COMPLAINT

For its Complaint, Unwired Asset Management LLC ("UAM"), by and through the undersigned counsel, alleges as follows:

THE PARTIES

1. UAM is a Texas limited liability company with a place of business located at 17330 Preston Road, Suite 200D, Dallas, Texas 75252.
2. Defendant CallFire, Inc. is a Delaware company, with, upon information and belief, a place of business located in Austin, Texas.

JURISDICTION AND VENUE

3. This action arises under the Patent Act, 35 U.S.C. § 1 *et seq.*
4. Subject matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338.
5. Upon information and belief, Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the

infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in this district.

6. Venue is proper in this district pursuant to § 1400(b).

THE PATENT-IN-SUIT

7. On July 1, 2014, U.S. Patent No. 8,768,756, entitled "System and Method of Delivering Audio Communications," was duly and lawfully issued by the U.S. Patent and Trademark Office. A true and correct copy of the '756 patent is attached hereto as Exhibit A.

8. UAM is the assignee and owner of the right, title and interest in and to the '756 patent, including the right to assert all causes of action arising under said patent and the right to any remedies for infringement of it.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 8,768,756

9. UAM repeats and realleges the allegations of paragraphs 1 through 8 as if fully set forth herein.

10. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant is liable for infringement of at least claim 1 of the '756 patent by making, using, importing, offering for sale, and/or selling, systems and methods for delivering an audio communication, , including, but not limited to, Defendant's Interactive Voice Response system ("IVR"), because each and every element is met either literally or equivalently.

11. Upon information and belief, Defendant used IVR via its internal use and testing in the United States, directly infringing one or more claims of the '756 patent.

12. For example, to create its documentation for developers, *see, e.g.*, https://developers.callfire.com/callfire_xml_introduction.html, Defendant used IVR.

13. More specifically and upon information and belief, IVR provides a voice message broadcasting platform or solution to advertisers or organizations for various purposes such as surveys, polls, payments, etc. The platform allows users to reply or provide feedback by replying to the IVR menu.

IVR

CallFire allows you to use IVR for sending calls with the help of CallFire XML. Interactive voice response (IVR) is a technology that allows a computer to interact with humans through the use of voice and DTMF tones input via keypad. IVR allows customers to interact with a company's host system via a telephone keypad or by speech recognition, after which services can be inquired about through the IVR dialogue. IVR systems can respond with prerecorded or dynamically generated audio to further direct users on how to proceed. IVR systems can be used for mobile purchases, banking payments and services, retail orders, utilities, travel information and weather conditions. CallFire allows you to create both outbound and inbound ivrs.

https://developers.callfire.com/callfire_xml_introduction.html.

Interactive Voice Response systems can be applied for both inbound and outbound messaging. **Either way, the CallFire IVR system is easy to use and streamlines your communications.**

Outbound

Send automated surveys and polls to customers, employees, voters, and others to collect and manage data for your business or campaign.

- Political polling messaging services include candidate preference polls, issue-voting polls, or even calls to action.
- Disaster warning campaigns can be set up to alert recipients or collect vital information in a short amount of time.

A Guide to: Interactive Voice Response at p. 4 (available at <https://www.callfire.com/sites/default/files/download/guides/ivr-guide.pdf>).

14. IVR provides different type of audio messages based on whether the call is picked by the user or it gets forwarded to an answering machine or voicemail (e.g.,

"selectively delivering an audio message") using its Answering Machine Detection (AMD) technology. The audio message delivered can be a personalized voice message having content specific to a recipient (e.g., "content") along with message containing information such as payments, appointment reminders, etc. (e.g., "advertising portion").

Use an auto attendant to organize your marketing and communications with IVR

Hosted **Interactive Voice Response** (IVR) is an easy-to-use solution for organizing your inbound and outbound communication with your customers. With an IVR solution, your company can send out an automated call to notify customers about outages, upgrades, promotions, past due accounts, and more with the option to pay over the phone or to be transferred to an operator. Customers can also call your number and request services using a key-press or touch-tone menu. Our IVR designer allows users to create notifications and reminders using a text-to-speech option for your utilities company. With our IVR designer, customize your menus with our simple drag-and-drop interface or we will set it up for you for FREE!

- Build loyalty by providing customers with the simple option to "pay my utility bill" over the phone
- Create relationships with clients by sending personalized calls with access to records
- Reduce delinquent accounts by automatically notifying customer about service interruption

[Learn more about Hosted IVR](#)

[https://www.callfire.com/industries/utilities.](https://www.callfire.com/industries/utilities)

Voice message with IVR dialplan

The term IVR stands for Interactive Voice Response. An IVR allows you to ask questions through pre-recorded or text-to-speech prompts, and receive responses via phone key presses. The CallFire IVR setup uses an XML-based definition. Read more about IVRs at [CallFire XML](#) page.

The next XML sample represents a CallFire IVR dialplan which does the following:

- detects if the call is answered by a human or an answering machine, then plays a message or hangs up the phone.
- once the message is played, waits for user input before a given timeout (in our case 3500 milliseconds).
- if users presses "1," repeats the voice message, otherwise hangs up the phone.

[https://developers.callfire.com/individual.messaging.html.](https://developers.callfire.com/individual.messaging.html)

Manipulating Tags to the Right and Left

An important aspect of IVR design is the relationship between a parent and child nodes. Certain tags are, by their nature, parents of others. For example, in CallFire XML, an Answering Machine Detection tag contains two nodes: Live (answer) and Machine (answer). These are parent nodes: everything that should happen during a live call is a child of Live, while what should happen when an answering machine picks up the call will fall under Machine. In the IVR Designer, there are always two arrow buttons in the right-hand column.



These control the indenting to the right, or movement back to the left, of your button in that row. This helps define the structure of your IVR. Below, please notice what happens when you click the right-arrow indent button.

Here, the Play tag is exactly under the Machine tag. Play is *not* a child of Machine, so we click the right arrow.



<https://answers.callfire.com/hc/en-us/articles/202376778-IVR-Designer-Basics>.

CallFire releases new Answering Machine Detection (AMD)

Friday, May 1, 2009

By Ryann T, [Follow me on Google+](#)

CallFire's **Answering Machine Detection (AMD)** just got better! We worked with schools, emergency service companies, and automobile dealerships to improve our detection algorithm. When your campaigns use a sound file longer than 15 seconds, Callfire automatically switches to the newer engine. We hope you are able to experience the difference our beta customers have. So, *what changed?*

Old AMD:

Callfire would listen to the customer as they picked up the phone. During the first few seconds, AMD decides whether it's listening to an answering machine, voicemail box, or live person. In the case of an answering machine or a voicemail, CallFire AMD would wait until after the beep and leave your recorded message.

New AMD:

While playing your message, AMD listens for a voicemail or answering machine. Any such indication will interrupt the playback of the live answer message, and start the answering machine message after the beep. To ensure accuracy, CallFire's AMD engine requires a 15 second message, or longer, to make its decision.

The result?

In some cases, the accuracy of Answering Machine detection jumped to 95%! This is staggering compared to the 90% accuracy in prior revisions of CallFire's AMD. I hope the new engine increases your ROI as it has for our alpha clients already. For you API developers there's a way to switch your campaigns to the new answering machine detection as well! Take a look at the "useAnsweringMachineDetectionType2" function in the [CampaignService API](#).

<https://www.callfire.com/blog/2009/05/01/callfire-releases-new-answering-machine-detection-amd>.

Call Broadcasts (Voice and IVR)

Call Broadcasts represent two type of broadcasts: Voice and IVR. Everything that Voice broadcast can do you can also accomplish with the IVR broadcast, and the IVR allows you to ask questions through pre-recorded or text-to-speech prompts, and receive responses via phone key presses.

Voice Broadcasts allow you to send a pre-recorded voice message to a number of people. You can configure what message to play if the call is answered by a person, and set a different message to play if an answering machine is detected. Voice broadcasts can be configured to transfer a call when a transfer digit is pressed. The following settings are available for Call Broadcasts (Voice & IVR):

<https://developers.callfire.com/broadcast.messaging.html>.

Examples

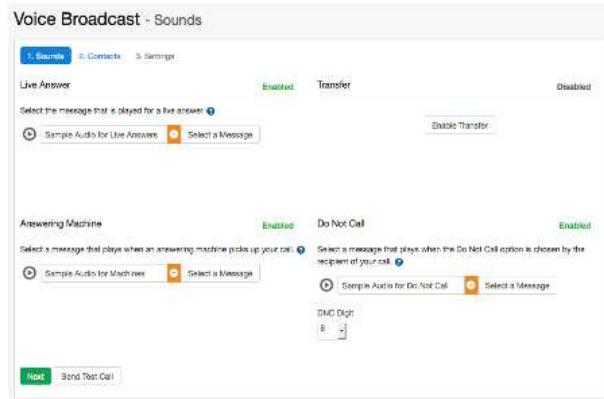
The following example presents a user with options if the user answers live. However, if we reach an answering machine, the system will play a message after the beep and hang up.

```
<dialplan name="Root">
  <amd>
    <live>
      <menu name="main_menu">
        <play type="callfireid">332122</play>
        <keypress pressed="1">
          <transfer callerid="5551231234" name="sales">
            5552312312
          </transfer>
        </keypress>
        <keypress pressed="3">
          <transfer callerid="5551231234" name="support">
            5552312312
          </transfer>
        </keypress>
        <keypress pressed="#">
          <play type="callfireid">332192</play>
        </keypress>
      </menu>
    </live>
    <machine>
      <play type="callfireid">332123</play>
    </machine>
  </amd>
</dialplan>
```

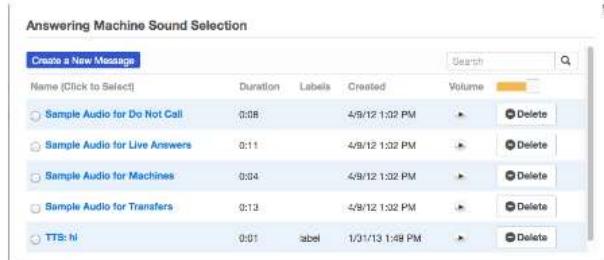
https://developers.callfire.com/callfire_xml_amd.html.

The Answering Machine box

CallFire's system includes an answering machine detection feature, which ensures that the correct message is left. As you can see below, you do this via the Answering Machine section of the Voice Broadcast - Sounds box.



When you click on the Select a Message button, the Answering Machine Sound Selection pop-up box appears, as seen below. You have the option of choosing one of your previously recorded messages, or creating a new one via the Create Message button.



<https://www.callfire.com/help/docs/voice-broadcast/selecting-sounds/answering-machine>.

15. When IVR detects that the call has been answered by a user (e.g., "call was not routed to the voice mail system"), a pre-recorded personalized audio message is played to the user including or followed by an IVR menu (e.g., "first available delivery format") prompting the user to provide a response by pressing a key.

Voice message with IVR dialplan

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- if users presses "1," repeats the voice message, otherwise hangs up the phone.

<https://developers.callfire.com/individual.messaging.html>.

Voice Broadcast - Sounds

1. Sounds 2. Contacts 3. Settings

Live Answer	Enabled	Transfer	Disabled
Select the message that is played for a live answer. <small>?</small>			
<input type="button" value="Sample Audio for Live Answers"/> <input type="button" value="Select a Message"/>		<input type="button" value="Enable Transfer"/>	

Answering Machine	Enabled	Do Not Call	Enabled
Select a message that plays when an answering machine picks up your call. <small>?</small>		Select a message that plays when the Do Not Call option is chosen by the recipient of your call. <small>?</small>	
<input type="button" value="Sample Audio for Machine"/> <input type="button" value="Select a Message"/>		<input type="button" value="Sample Audio for Do Not Call"/> <input type="button" value="Select a Message"/>	
DNC Digit 8			

<https://www.callfire.com/help/docs/voice-broadcast/selecting-sounds/answering-machine.html>.

AMD

Definition

Only use this tag for outbound campaigns. This tag enables the use of answering machine detection. The system will determine whether the answering line is live or an answering machine and react accordingly.

https://developers.callfire.com/callfire_xml_amd.html.

Examples

The following example presents a user with options if the user answers live. However, if we reach an answering machine, the system will play a message after the beep and hang up.

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        </keypress></menu>
      </live>
      <machine>
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    </amd>
  </dialplan>
```

Id.

16. When IVR detects that the call has been answered by an answering machine or voicemail (e.g., "call was has been routed to the voice mail system"), a pre-recorded voice message is sent to the voicemail of the user (e.g., "second available delivery format"). The first and the second available delivery format are different as the first format has a pre-recorded message followed by an IVR menu to capture the feedback of the user while the second format is only a voice message being sent to the user's voicemail.

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Id.

17. When a live caller is detected, the caller is presented with pre-recorded messages having IVR menu (e.g., "advertising portion includes a primary advertisement").

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      </machine>
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  </dialplan>
```

https://developers.callfire.com/callfire_xml_amd.html.

18. When an answering machine is detected, the pre-recorded messages (e.g., "second available delivery format") are delivered or saved to the answering machine. These pre-recorded messages are "non-interactive" messages or "advertisements" that do not provide an IVR menu.

Voice message with IVR dialplan

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      </machine>
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  </dialplan>
```

https://developers.callfire.com/callfire_xml_amd.html.

19. UAM is entitled to recover from Defendant the damages sustained by UAM as a result of Defendant's infringement of the '756 patent in an amount subject to proof at trial, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

JURY DEMAND

UAM hereby demands a trial by jury on all issues so triable.

PRAAYER FOR RELIEF

WHEREFORE, UAM requests that this Court enter judgment against Defendant as follows:

- A. An adjudication that Defendant has infringed the '756 patent;
- B. An award of damages to be paid by Defendant adequate to compensate UAM for Defendant's past infringement of the '756 patent and any continuing or future

infringement through the date such judgment is entered, including interest, costs, expenses and an accounting of all infringing acts including, but not limited to, those acts not presented at trial;

- C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an award of UAM's reasonable attorneys' fees; and
- D. An award to UAM of such further relief at law or in equity as the Court deems just and proper.

Dated: June 24, 2019

Respectfully submitted,

/s/ Raymond W. Mort, III
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Unwired Asset Management LLC*